

REMARKS

Reconsideration of the present application in view of the foregoing amendments and the following remarks is respectfully requested.

Claims 5-23 are pending in the application. Claim 13 has been amended to more clearly define the claimed subject matter. No new matter has been introduced through the foregoing amendments.

Claims 5, 6, 13, 14 and 16-23 stand rejected under 35 U.S.C. 103(a) as being unpatentable over *Crutcher* (US 5,722,098) in view of *Dittrich et al.* (US 6,712,255), hereafter “*Dittrich*.” Applicants respectfully traverse the rejection for the reasons discussed below.

Independent claim 5 recites that

“a power operated fastener feeding mechanism comprising:
a rotary feed member for feeding the fasteners one by one into the fastener guiding part to be driven from the head part by forward movement of the rod; and
an electric motor for driving the rotary feed member.”

In the other words, claim 5 requires an electric motor for driving a rotary feed member which is used for feeding the fasteners, which is not disclosed or suggested by the applied art.

It is the Examiner’s position that *Dittrich* discloses an electric circuit 63 controlling a rotary feed member 61. As best understood of the first paragraph at page 3 of the Office Action, it would have been obvious to one having ordinary skill in the art at the time of the invention to modify the rotary feed member 61 to have a separate power source than the drive rod.

Applicants respectfully disagree. The separate power source disclosed by *Dittrich*, i.e., the motor 63 (Fig. 9) is not for driving a rotary feed member to feed fasteners/charges. As disclosed in *Dittrich*, e.g., Fig. 9 and column 7, lines 39-52, a cutting device 60 has the motor 63 for driving a rotating blade to cut a magazine strip 22. The magazine strip 22/propellant charges 24 are not feed/driven by the motor 63. Although *Dittrich* discloses an electrical drive/motor 63, such electrical drive/motor 63 is different from the electric motor as claimed in claim 5.

Further, Applicants respectfully submit that the applied art of *Dittrich* and *Crutcher* are not combinable. As disclosed in Figs. 4-6 of *Dittrich*, the electrical drive/motor 63 of the cutting device 60 is disposed in housing 11. *Crutcher* requires the fasteners be driven from guide drive/head part 8. In view of above, one of ordinary skill in the art would not combine *Dittrich* and *Crutcher* because *Dittrich*'s electrical drive/motor 63 would be disposed at the head part 8 rather than in any housing/main body of *Crutcher*, which is totally contrary to the requirement of *Dittrich*.

In addition, even if *Dittrich* and *Crutcher* were combinable as alleged by the Examiner, the resulting combination would have an electrical drive/motor 63 for only cutting the fastener strip/connector 12 of *Crutcher*, which still fails to disclose or suggest the claimed features of claim 5. It should be noted that the cutting arrangement of *Dittrich* is for cutting a used portion of the fastener strip 22, i.e., after the fastener has been cut from the tool. See, *Dittrich* at Abstract, last sentence and column 1, line 57. Thus, if *Dittrich*'s cutting device were disposed in *Crutcher*'s tool, the fasteners would be cut off and would not be fed one by one into a fastener guiding part at the head part.

Therefore, claim 5 is patentable over the applied art.

Independent claim 16 recites an electrically powered fastener feeding mechanism for feeding fasteners from a magazine associated with said tool to the fastener driving mechanism. As discussed above with respect to claim 5, the applied art singly or in combination does not disclose or suggest the highlighted claim features in a fastener driving tool.

Likewise, **new independent claim 20** recites an electrically powered fastener feeding mechanism for feeding fasteners from a magazine associated with said tool to the fastener driving mechanism, which is not disclosed or suggested by the applied art singly or in combination. Therefore, claim 20 is patentable over the art.

The rejected dependent claims depend from claims 5, 16 or 20, and are considered patentable at least by virtue of their dependency as well as on their merits.

For example, claims 19 and 23 recite that "the control circuit is arranged for, in response to

the second detection that one of the fasteners has been fed to the fastener driving mechanism, turning off the motor before energizing the brake.” As disclosed in the cited portion, i.e., column 7, lines 62-67 of *Dittrich*, it states that “the electrical control can be activated automatically, e.g., after each setting process or after a predetermined number of setting processes, for actuation of the cutting device,” which does not disclose or suggest the highlighted feature. Therefore, claims 19 and 23 are patentable over the art.

Claim 13 recites a rotary feed gear disposed at the head part and *directly* driven by the electric motor to feed said fasteners. As discussed with respect to claim 5, even if the applied art were combinable, the resulting combination would not have a rotary feed gear directly driven by the electric motor to feed the fasteners, because in *Dittrich* gear 64 *directly* drives blade 61 to cut magazine strip 22. Therefore, claim 13 is patentable over the art.

Accordingly, the rejection should be withdrawn.

Claims 7-12 stand rejected under 35 U.S.C. 103(a) as being unpatentable over *Crutcher* in view of *Dittrich*, and further in view of *Maynard* (US 3,628,715). *Maynard* does not cure the deficiencies of *Crutcher* and *Dittrich*. Therefore, claims 7-12 which depend upon claim 5 are patentable for the reasons advanced with respect to claim 5. Accordingly, the rejection should be withdrawn.

Conclusion

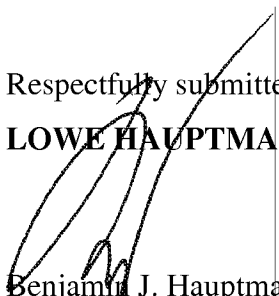
Applicants respectfully submit that all claims are in condition for allowance. Early and favorable indication of allowance is courteously solicited.

The Examiner is invited to telephone the undersigned, Applicant's attorney of record, to facilitate advancement of the present application.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 07-1337 and please credit any excess fees to such deposit account.

Respectfully submitted,

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